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09/894,391	06/28/2001	Michael Epstein	US 010314	6445
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			EXAMINER	
			TRUONG, LAN DAI T	
			ART UNIT	PAPER NUMBER
			2452	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/894,391

**Applicant(s)**

EPSTEIN, MICHAEL

**Examiner**

LAN-DAI Thi TRUONG

**Art Unit**

2452

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/12/2010 has been entered.

2. This action is response to communications: application, filed on 11/16/2001; amendment filed on 03/12/2010. Claims 4-10 are pending; claims 1-3 and 11-13 are canceled

3. The applicant's arguments file on 08/02/2007 have fully considered but they are moot in view with new ground for rejections.

### **Specification Objections**

4. The specification is objected to under CRF 1.75 because there are no definitions for claim elements of "verifier" and "timer" provided in the specification. In this instance, applicant fails to provide antecedent basic for the claim terminologies "verifier/ and timer" within the meaning of §101. However, based on figure 1, items 120, 126, 128, the context of the verifier/ and timer are used in the claim would fairly suggest to one of ordinary skill only appropriate physical part of a device so that the system constitute a machine.

### **Claim rejections-35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C 103(a) as being un-patentable over Candelore (U.S. 2002/0154777), in view of Honda (U.S. 6,910,221) in view of Fisher (U.S. 5,659,617) and further in view of Nickles (U.S. 6134591).**

**Regarding claim 4:**

Candelore discloses the invention substantially as claimed, including a security system, comprising:

a verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Candelore discloses a security system and method of authenticating location of content players. Candelore discloses method for checking/comparing a time generating by the CPS receiver with a secure time source to verify the validity of the content player locations. Candelore also discloses the authentication for the content players to operate based upon the correlations between time data and location data: abstract; [0002]; [0047]-[0049]; [0052]-[0053]).

the response times are correlated to a physical proximity between verifier and a first source of the one or more request, and between the verifier and a second source of the one or more response: (Candelore discloses method for authentication location of content player; wherein a content processing device includes “a processor” which is equivalent to “verifier” used to verify

the validity of the content player location based upon the “time data” which is equivalent to “response time” and “location data” with is equivalent to “physical proximity”, see (Candelore: abstract; [0002]; [0047]-[0049]; [0052]-[0053])

However, Candelore does not explicitly disclose a timer that is configured to measure response times associated with the one or more responses to the one or more requests

In analogous art, Honda discloses method for measuring response times between a client computer and a server. “Time measurement unit” which is equivalent to “timer”, “display section” which is equivalent to “render”, and “evaluation system” which is equivalent to “verifier”: column 3, lines 35-67; column 4, lines 1-67; column 9, lines 1-67, column 10, lines 1-67).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Honda’s ideas of measuring response time with Fisher’s ideas of authentication location of player based upon response time with Candelore’s system in order to provide a higher level secure authentication communication system, see (Candelore: [0052]-[0053])

However, Candelore -Honda does not explicitly disclose the verifier is configured to determine the authorization based at least in part on an assessment of the response times.

In analogous art, Fisher discloses “validity” which is equivalent to “authorization” based upon “the expected request transmitting time” which is equivalent to “the response time.” Fischer discloses a unique location certificates to establish the location of participants in a network, determine the validity of objects which are expected to be presented within certain

geographic bounds and control the use of security or sensitive devices, see (Fischer: column 6, lines 1-67; column 4, lines 32-67; column 5, lines 1-49; column 1, lines 49-56).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Fisher's ideas of determine the authorization based at least in part on an assessment of the response times with Candelore -Honda's system in order to increase security for communication system, see (Fisher, column 2, lines 15-18).

However, Candelore-Honda- Fisher does not explicitly disclose assessment of response times involves ascertaining abnormal lag times between the one or more responses and the one or more requests based on predetermined lag times.

In analogous art, Nickles does method of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data, see (column 5, lines 62-67; column 6, lines 1-7, 25-35; column 11, lines 18-26).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Nickles's ideas of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data with Candelore-Honda- Fisher's system in order to provide a higher level secure authentication communication system, see (Nickles, column 2, lines 61-67).

**Claim 5 is rejected under 35 U.S.C 103(a) as being un-patentable over Candelore (U.S. 2002/0154777) in view of Honda (U.S. 6,910,221) in view of Fisher (U.S. 5,659,617) in**

**view of Dillenberger et al. (U.S. 2002/0069281) and further in view of Nickles (U.S. 6134591).**

**Regarding claim 5:**

Candelore discloses the invention substantially as claimed, including a security system, comprising:

a verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Candelore discloses a security system and method of authenticating location of content players. Candelore discloses method for checking/comparing a time generating by the CPS receiver with a secure time source to verify the validity of the content player locations. Candelore also discloses the authentication for the content player to operate based upon the correlations between time data and location data: abstract; [0002]; [0047]-[0049]; [0052]-[0053]).

However, Candelore does not explicitly disclose a timer that is configured to measure response times associated with the one or more responses to the one or more requests.

In analogous art, Honda discloses method for measuring response times between a client computer and a server. "Time measurement unit" which is equivalent to "timer", "display section" which is equivalent to "render", and "evaluation system" which is equivalent to "verifier": column 3, lines 35-67; column 4, lines 1-67; column 9, lines 1-67, column 10, lines 1-67).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Honda's ideas of measuring response time with Fisher's ideas of authentication location of player based upon response time with Candelore's system in order

to provide a higher level secure authentication communication system, see (Candelore: [0052]-[0053]).

However, Candelore -Honda does not explicitly disclose the verifier is configured to determine the authorization based at least in part on an assessment of the response times.

In analogous art, Fisher discloses “validity” which is equivalent to “authorization” based upon “the expected request transmitting time” which is equivalent to “the response time.” Fischer discloses a unique location certificates to establish the location of participants in a network, determine the validity of objects which are expected to be presented within certain geographic bounds and control the use of security or sensitive devices, see (Fischer: column 6, lines 1-67; column 4, lines 32-67; column 5, lines 1-49; column 1, lines 49-56).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Fisher’s ideas of determine the authorization based at least in part on an assessment of the response times with Candelore -Honda’s system in order to increase security for communication system, see (Fisher, column 2, lines 15-18).

However, Candelore -Honda -Fisher does not explicitly disclose the assessment of the response times forms an assessment.

In similar art, Dillenberger discloses method for monitoring, collecting response times and generating performance metric: (abstract).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Honda’s ideas of measuring response times with Fischer’s ideas of determine the authorization based upon the response times with Dillenberger’s ideas of calculating and generating performance metric into Candelore -Honda -Fisher’s system in order



to save resources and development time by implying Dillenberger's ideas into Candelore -Honda -Fisher's system.

However, Candelore-Honda- Fisher-Dillenberger does not explicitly disclose assessment of response times involves ascertaining abnormal lag times between the one or more responses and the one or more requests based on predetermined lag times.

In analogous art, Nickles does method of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data, see (column 5, lines 62-67; column 6, lines 1-7, 25-35; column 11, lines 18-26).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Nickles's ideas of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data with Candelore-Honda- Fisher-Dillenberger's system in order to provide a higher level secure authentication communication system, see (Nickles, column 2, lines 61-67).

**Claims 7 and 9 are rejected under 35 U.S.C 103(a) as being un-patentable over Serret-Avila et al. (U.S. 6,785,815) in view of Honda (U.S. 6,910,221) in view of Hershey et al. (U.S. 4,924,378) and further in view of Nickles (U.S. 6,134,591).**

**Regarding claim 7:**

Serret-Avila discloses the invention substantially as claimed, including a system, which can be implemented in a computer hardware or software code for processing a system comprising:

a render for receiving a plurality of data items corresponding to a data set, and for producing therefrom a rendering corresponding to a select data item: (Serret-Avila discloses method for preventing access to un-authorization copies of protected content. In Serret-Avila's system, "the data signals" which is equivalent to "data set" is stored and distributed on a compact-dis, a DVD, or the like. Serret-Avila discloses "decoding system such as a portable audio or video player" which is equivalent to "renderer" includes memory for storing data signals, a disk drive for writing data signals to diskettes, CDs, DVDs. Serret-Avila also discloses the requested file/tracks is available to access/distribute/ "play" which is equivalent to "producing" if the authorization successes: abstract, lines 5-11; column 6, lines 45-59; column 7, lines 25-28; column 8, lines 25-67; column 2, lines 45-50, 56-67; column 3, lines 29-46; column4, lines 36-59; column 5, lines 1-9).

a verifier, operably coupled to the renderer, for precluding the rendering corresponding to the select data item in dependence upon whether other data items of the plurality of data items are available to the render: (Serret-Avila discloses the decoding system such as a portable audio or video player includes "verification engine" which is equivalent to "a verifier" operates to verify the authenticity of the receiving signals. If the verifying fails, then the playing of the receiving signals is inhibited: figure 5A; column 3, lines 29-36)

However, Serret-Avila does not explicitly discloses timer, operable coupled to the verifier and render, for measuring response times associated with responses to request for the other data items from the render.

In similar art, Honda disclose "time measurement section" which is equivalent to "timer", "display section" which is equivalent to "render", and "evaluation system" which is equivalent to

“verifier”: column 3, lines 35-67; column 4, lines 1-67; column 9, lines 1-67, column 10, lines 1-67).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Honda’s ideas of incorporation between time measurement section, evaluation system into Serret-Avila’s system in order to be able using processing time to evaluated the satisfaction degree for user based upon response time, see (Honda’s: column 4, lines 5-10).

However, Serret-Avila- Honda does not disclose wherein the verifier precludes the rendering based at least in part on an assessment of the response times.

In analogous art, Hershey disclosed a communication system comprising associations between purchased application programs and subscriber licenses for using the purchased application program. Hershey discloses a timer is set in the operating system of the work station to keep track of responses it is waiting for, and based on comparison between response time and the time is set by timer; If a response is not received with the time is set by timer, the process for requesting of using application programs is inhibited: (column 3, lines 57-64; column 5, lines 19-41; column 6, lines 20-67)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Hershey’s ideas of validation request based on response time with Serret-Avila- Honda’s system in order to provide a secure online purchase, see (Hershey: column 1, lines 65-67).

However, Serret-Avila- Honda-Hershey does not explicitly disclose assessment of response times involves ascertaining abnormal lag times between the one or more responses and the one or more requests based on predetermined lag times.

In analogous art, Nickles does method of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data, see (column 5, lines 62-67; column 6, lines 1-7, 25-35; column 11, lines 18-26).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Nickles's ideas of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data with Serret-Avila-Honda-Hershey's system in order to provide a higher level secure authentication communication system, see (Nickles, column 2, lines 61-67).

**Regarding claim 9:**

In addition to rejection in claim 7, Serret-Avila-Honda-Hershey-Nickles further discloses verifier is configured to form the assessment based on at least one of: an average of the response times, a comparison of the response times to one or more threshold times, an statistical test based on the response times: (Hershey disclosed how the system keeps track of responses it is waiting for. He taught that the system compares the response time with the time is " the threshold time" set by timer to determine if it is valid request or not: column 5, lines 27-35).

**Claim 6 is rejected under 35 U.S.C 103(a) as being un-patentable over Hershey et al. (U.S. 4,924,378) in view of Fischer (U.S. 5,659,617) and further in view of Nickles (U.S. 6134591).**

**Regarding claim 6:**

a verifier that is configured to determine an authorization to process protected material, based on one or more responses to one or more requests: (Hershey disclosed a System For Managing Software Licenses by limiting the number of computers permitted to run a program to the number of licenses granted. This system measures which discourage persons from trying to run a program without a license by getting around the check points, if a license is not available, the application program will not be able to run. Hershey disclosed microprocessor which is equivalent to "a verifier" verifies communication between License Storage Key and a Work Station. He taught that the microprocessor verifies requests and responses between License Storage Key and a Work Station to determine that a license exists or not: column 5, line19; column 6, lines 50-53, 65-68; column 7, lines 11-21; column 3, lines 56-67; column 5, lines 2-3).

a timer that is configured to measure response times associated with the one or more responses to the one or more requests; wherein the verifier is configured to determine the authorization based at least in part on an assessment of the response times: (Hershey disclosed a timer is set when a request is sent out from work station to the License Storage Key to measure the response time for system, and base on the time is set by the timer, if a response is not received within the setting time, then an error is returned to requestor: column 5, lines 27-35).

However, Hershey does not explicitly disclose wherein the assessment of the response times form an assessment of whether the one or more responses were immediately available, or whether the one or more responses were a result determination.

Fischer discloses a system for provide reliable location certificate used to prove the geographic location of participants in a network. He discloses the correlation between response time and geographic location of participant, which is used to determine if the participants are valid members in the network or not. The system controls the use of security or sensitive devices by limiting their operation to certain location if they are too distant or at wrong angular locations: (column 1, lines 49-56; column 4, lines 32-36; column 8, lines 45-55)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Fischer's ideas of providing reliable location certificate used to prove the geographic location of participants in a network with Hershey's system in order to control the use of security or sensitive devices, see (Fischer: column 1, lines 49-56).

However, Hershey-Fischer does not explicitly disclose assessment of response times involves ascertaining abnormal lag times between the one or more responses and the one or more requests based on predetermined lag times.

In analogous art, Nickles does method of setting up specific time/certain duration time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data, see (column 5, lines 62-67; column 6, lines 1-7, 25-35; column 11, lines 18-26).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Nickles's ideas of setting up specific time/certain duration

time for particular transaction between user computer system and the source computer system to prevent computer hacker access to corrupt data with Hershey-Fischer's system in order to provide a higher level secure authentication communication system, see (Nickles, column 2, lines 61-67).

**Claim 10 is rejected under 35 U.S.C. 103(a) as being un-patentable over Serret-Avila-Honda-Hershey-Nickles in view of Zoest et al. (U.S. 6,496,802).**

**Regarding claim 10:**

Avila-Honda-Hershey-Nickles discloses the invention substantially as disclosed in claim 7, but does not explicitly teach randomly selecting the other data items.

In similar art, Zoest disclosed a Verification Server what is equivalent to "verifier" verifies that if the user is authorized to access an electronic work. He taught that the verification server may look-up random sample of data related to request and compares this sample data with data extracted from a physical work, base on comparison the Verification Server determines that if the user is authorized to access an electronic work, see (column 5, lines 21-39; column 8, lines 67; column 9, lines 1-4).

It would have been obvious to a person of ordinary skill in the art at the time the invention was make to modify the verifier of Serret-Avila-Honda-Hershey to provide for random samples of data is taught in Zoest. The combination would have been obvious because on of ordinary skill in the art would have been motivated to verify that the users are authorized to access an electronic copy of the work based on random selection, see (Zoest: column 9, lines 1-4).

**Claim 8 is rejected under 35 U.S.C 103(a) as being un-patentable over Serret-Avila-Honda-Hershey in view of Vered et al. (U.S. 6,954,786).**

**Regarding to claim 8:**

Serret-Avila-Honda-Hershey-Nickles discloses the invention substantially as disclosed in claim 7, but does not explicitly teach the assessment of the response times corresponds to a determination of whether the other data items are located in physical proximity to render, see (Vered: column 5, lines 1-9).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Vered's ideas of creating relationships between position proximity and response time with Serret-Avila-Honda-Hershey-Nickles's system in order to be able to improve performance of communication network .

The prior art made of a record and not relied upon is considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "Temporal Proximity to verify physical proximity": 5559505; 5724423; 5559505, 6218941; 20010034842.

### **Conclusions**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan-Dai Thi Truong whose telephone number is 571-272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner  
Ltd.  
05/18/2010.

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Primary Examiner, Art Unit 2452